



MILPITAS PLANNING COMMISSION AGENDA REPORT

Meeting Date: February 24, 2016

PUBLIC HEARING

APPLICATION:

Major Tentative Map No. MT15-0003
Conditional Use Permit No. UP15-0007
Site Development Permit No. SD15-0001
Environmental Assessment No. EA15-0002

A request for the redevelopment of the approximately three-acre site with a 22-story mixed-use building including two 19-story residential towers over one to two levels of subterranean parking and three levels of parking and retail and office uses.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 16-005, thereby recommending the City Council approve MT15-0003, UP15-0007, SD15-0001, and EA15-0002

LOCATION:

Address/APN:

600 Barber Lane (APN: 086-01-034)

Area of City:

PEOPLE:

Project Applicant:

BDK Capital LLC

Consultant(s):

Mark Kim, MVE & Partners

Property/Business Owner:

BDK Capital LLC

Project Planner:

Richard Patenaude, AICP, Contract Planner

LAND USE:

General Plan Designation:

Boulevard Very-High Density Mixed-Use (BVMU)

Zoning District:

Mixed-Use Very-High Density (MXD3)

Overlay District:

High-Rise (HR)

ENVIRONMENTAL:

On November 18, 2008, the City of Milpitas certified an Environmental Impact Report (EIR) for an 18-story mixed use project at this location and subsequently approved that project. The project now proposed includes all of the same mitigation measures described in the certified EIR and required as a condition of approval for the existing entitlements. An Addendum to the EIR has been prepared to evaluate any environmental impacts of the proposed changes from the entitled project to the proposed project. The Addendum concludes that the proposed project would not result in any new impacts that were not disclosed in the previously-certified EIR, nor would the changes substantially increase the

magnitude of those impacts previously identified. A supplemental or subsequent EIR is therefore not required, and the Addendum will be attached to the Landmark Tower Mixed-Use Development EIR, pursuant to CEQA Guidelines §15164(c).

LOCATION MAP



BACKGROUND

The project site is the former location for Billings Chevrolet. The Billings Chevrolet building was approved on May 27, 1992. The existing building is approximately 20,000 square feet and includes outdoor display area, indoor showroom area and mechanic shop. The car dealership closed approximately in 2003 and is currently vacant. At the time the dealership was approved, the site was designated and zoned General Commercial by the General Plan and Zoning Ordinance.

In 2008, a prior applicant proposed to redevelop the site with an 18-story, 277 foot tall mixed use building. Among other entitlements, that project required a General Plan and Zoning Amendment to change the land use designations (from General Commercial (C2/GNC) to Mixed Use (MXD3/BVMU) and to incorporate a new High-Rise (HR) overlay district to accommodate the unique development. The project also needed a General Plan amendment, zoning amendment, tentative map, site development permit and conditional use permit. An Environmental Impact Report was prepared since the project would have resulted in potentially significant environmental impacts. On November 18, 2008, the City of Milpitas certified the Environmental Impact Report (EIR), and approved the proposed project.

The project as currently proposed includes all of the mitigation measures described in the certified EIR and required as a condition of approval for the existing entitlements.

SITE DESCRIPTION

The project site is approximately three acres and contains a 20,000 square foot building. The site was previously improved with the existing building, outdoor display area, utilities and landscaping. Retail commercial uses are located to the north and south of the site. Office buildings are located to the west. The east edge of the site is bounded by Interstate 880. The site is accessed by Highway 237 via McCarthy Boulevard and Bellew Drive. See the location map on the previous page.

PROJECT DESCRIPTION

The proposed project is a variation on the previously approved project and consists of the construction of a 22-story mixed-use project including the vertical integration of residential, retail and office uses and ancillary site development. Notably, this iteration of the project is less than three feet taller than the previously approved project at this location. See Table 1 for project information.

TABLE 1: PROJECT INFORMATION

APPROVED PROJECT (2008)		CURRENT PROPOSAL	
<u>Use/Standards</u>	<u>Statistics</u>	<u>Statistics</u>	<u>Notes</u>
Retail s.f.	148,805 s.f.	42,000 s.f.	Floors 1-3
Office s.f.	48,690 s.f.	8,000 s.f.	Floor 4
Residential Units	375	450	Condominium units, floors 4-22
Parking Required	1,322 spaces	1,234 spaces	
Parking Provided	1,392 spaces	1,383 spaces	Includes automated parking system
Height	18 stories (277')	22 stories (279.5')	
Residential Density	125 d.u./acre	150 d.u./acre	
Commercial FAR	1.5	0.39	Includes office and retail;

			maximum 2.0 FAR allowed (2.5 w/ CUP)
Setbacks			
Front	55 feet	30 feet	12'-20' required; except where there are existing easements
North side	40 feet	27 feet	20' minimum
South side	32 feet	3 feet	20' minimum
East side	0 feet	0 feet	30' minimum

ANALYSIS

General Plan Designation

As a result of the 2008 project approvals at this site, the City of Milpitas General Plan now designates the existing project site *Boulevard Very High Density Mixed Use*. This classification is intended to provide high-density housing, retail and employment with a landscaped boulevard character. Projects may include a wholly residential or non-residential concept, or a project that integrates residential or non-residential uses vertically or horizontally. Permitted uses include residential, office, commercial and medical uses. The project's commercial floor-area ratio (FAR) of .39 is well below the maximum 2.0 allowed.

Zoning Ordinance Designation

The 2008 project approvals included a rezone, such that the City's Zoning Map now designates the project site as *Very High Density Mixed-Use (MXD3) with an HR Overlay*, consistent with the General Plan designation. The *MXD3* zoning district allows for commercial offices, retail and personal service, high density residential and public and quasi-public uses with a density between 41-60 dwelling units per gross-acre. But when overlaid with the *HR Overlay*, densities between 60-150 dwelling units per gross acre are allowed. The overlay is intended for areas that are well suited for taller, high density mixed-use buildings, such as along freeways or expressways. The density of the proposed project is at the maximum density allowed at 150 units/acre.

Site Development Permit/Conditional Use Permit

The project proposes to redevelop the site with a 22-story mixed-use building including two 19-story residential towers over one to two levels of subterranean parking and three levels of parking and retail and office uses. The mixed-use building would have a maximum height of 22 stories (approximately 279.5 feet).

Design, Building Height and Setbacks

Staff worked with the applicant throughout the project to study different elements of the building's design. The applicant was asked to study the selection of exterior glass; the massing of the base as it relates to the rest of the building; interior/exterior pedestrian and vehicular circulation. The design issues have been studied and resolved. In order to grant the Site Development Permit, the Planning Commission must find that (a) the layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development, (b) the project is consistent with the Zoning Ordinance, and (c) the project is consistent with the General Plan.

The proposed building, if approved and built, will be the tallest building in the city at a height of 22 stories (279.5'). Currently, the three tallest buildings in the City are Crown Plaza Hotel: 12 stories (129'); Embassy Suites: 10 stories (109'); and Sheraton Hotel: 9 stories (104'). As set forth in Table XI-10-6.04-1 of the Milpitas Municipal Code, the maximum height permitted by right in the MXD3 zoning district is 12 stories, or 150 feet; a greater height of up to 20 stories may be allowed through the approval of a Conditional Use Permit. However, the Municipal Code also allows for exceptions to all but the use, floor area ratio, density, and park land requirement regulations governing the mixed use zones. (See Milpitas Municipal Code Section XI-10-6.07.) In order to grant such an exception, the applicant must procure a Conditional Use Permit, which the Planning Commission may grant upon finding that (a) the exceptions meet the design intent identified within the Zoning District and/or Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development, and (b) the exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard. Here, the increased height would allow for the density encouraged by the General Plan, and would allow for a building of less bulk than one with less height.

The project requires a reduction of the setback from the south property line from 20 feet to three feet, and from the east property line from 30 feet to zero feet along a portion of the property line. The south property line abuts a parking area for the adjacent commercial property. The first three levels of the proposed structure, containing portions of the parking garage, would be set back three feet from this property line, while portions of the residential tower would be set back approximately 20 feet from the south property line. The east property line abuts Interstate 880. The ground level trash enclosure would be located on the property line. The remainder of the building would conform to the required 30-foot setback, except at the southeast corner of the property where it would be set back approximately 15 feet. Such exceptions also require the procurement of a Conditional Use Permit. Staff supports the setback reductions as they are appropriate in a high-density, freeway corridor location.

Parking

The parking garage proposed by the project would provide a total of 1,383 parking spaces. The rates and respective parking requirement for the proposed project are identified in Table 2. The project will incorporate an automated parking system consisting of enclosed mechanical lifts that will shuttle the vehicles to subterranean parking racks. The storage facility has capacity for 1,200 vehicles. The system will have the ability to recall vehicles by smartphones in order to expedite pickup. There will be an additional 183 regular self-parking spaces located on levels one through three. The combined self-parking and automated systems will exceed the minimum amount required by the Zoning Ordinance. A condition of approval will require the project to provide a minimum of 55 bicycle parking spaces.

Twenty percent of the total self-parking is proposed to be provided through the use of tandem spaces, which require approval of a Conditional Use Permit, subject to the findings identified above. A limited number of tandem spaces allows for more efficient use of the building's floor area, and provides for assignment of multiple spaces to residential tenants.

Table 2 Parking Requirements			
Land Use	Size	Rate	Stalls Required
Retail	42,000 sf	1 per 250 sf	168
Office	8,000 sf	1 per 240 sf	34
Commercial Subtotal			202
1 Bedroom Condominium	6 units	1.5 per unit	9
2+ Bedroom Condominium	444 units	2 per unit	888
Guest Parking	15% of Residential Total		135
Residential Subtotal			1,032
Total			1,234
Source: City of Milpitas Zoning Ordinance			

ADOPTED PLANS AND ORDINANCE CONSISTENCY

Conformance with the Zoning Ordinance

As set forth above, the proposed project conforms to the zoning ordinance, provided a Conditional Use Permit is issued to address an exception to the height standard, the requested setback reductions, and the use of tandem parking. The proposed land use will be consistent with its surrounding land uses and, with the approval of the Conditional Use Permit, the proposal will meet the established development regulations.

Conformance with the General Plan

The project conforms to the General Plan. The proposed project does not conflict with any General Plan Principles and Policies, and is consistent with the following General Plan Implementing Policies. See Table 3 below.

Table 3
General Plan Consistency

Policy	Consistency Finding
2.a-I-3 Encourage economic pursuits, which will strengthen and promote development through stability and balance.	Consistent: the project will strengthen and promote many businesses in the City of Milpitas by the redevelopment of a property with a long-standing vacant building, encouraging improvements by owners of other nearby properties.
2.a-I-7 Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.	Consistent: the project will provide opportunities to expand employment by constructing 50,000 square feet of new retail and office uses.

2.a-I-12 Use zoning for new residential developments to encourage a variety and mix in housing types and costs.	Consistent: the project provides for-sale, high-density residential condominiums that the City needs to meet its housing obligations.
2.a-G-3 Provide for a variety of housing types and densities that meet the needs of individuals and families.	Consistent: the project offers a unique housing need that, in recent studies, is in demand by working people and families that seek high-quality, high-density, for-sale residential units with amenities that are within walking distance.

ENVIRONMENTAL REVIEW

An Environmental Impact Report (EIR) was prepared and certified in 2008 for the previously-entitled 18-story project. An Addendum to the EIR has been prepared to evaluate environmental impacts of the proposed changes to that project, hereinafter the “revised project.” The Addendum concludes, based on substantial evidence and pursuant to CEQA Guidelines section 15162, that there are no: (1) new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts; (2) no substantial changes in circumstances that would result in new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts; and (3) new information that could not have been previously known regarding new significant impacts, a substantial increase in the severity of previously identified impacts, no newly-found-to-be feasible mitigation measures, or considerably different mitigation measures, that the applicant declines to adopt. A supplemental or subsequent EIR is therefore not required for the revised project, and the Addendum will be attached to the Landmark Tower Mixed-Use Development EIR, pursuant to CEQA Guidelines §15164(c).

The EIR identifies the potential for significant effects on the environment from the development of the project, most but not all of which can be substantially reduced through the implementation of mitigation measures. These significance conclusions remain the same for the revised project. Further, the revised project will be subject to the same mitigation measures that the EIR determined are required to reduce impacts to a less than significant level and that have been included as part of the Mitigation, Monitoring or Reporting Program (MMRP). This program identifies all the required mitigation and when it is required. For example, if re-striping of a particular road is required to mitigate a traffic impact, then the MMRP would state the re-striping requirement, the party responsible for the mitigation and require plans to be reviewed and approved prior to issuance of building permits.

However, the potential significant environmental impacts of the original and the revised project that could not be reduced to a less-than-significant level are listed below.

- Air Quality: Residents of the project would be exposed to substantial odors from the San José-Santa Clara Regional Wastewater Facility.

Traffic congestion would be worse than existing conditions, but better than with the previously-approved project, at the following street intersections and segments:

- Alder Drive/Tasman Drive
- Tasman Drive/I-880 SB Ramps
- Great Mall Parkway/I880 NB
- Great Mall Parkway-Capitol Ave./ Montague Expressway

- Eastbound SR 237, McCarthy Blvd. to I 880
- Westbound SR 237, I-880 to McCarthy Blvd.
- Westbound SR 237, McCarthy Blvd. to Zanker Road

When a project has impacts that cannot be reduced to a less than significant level, the approval body must make the required findings and Statement of Overriding Considerations, stating that the benefits of the project outweigh the environmental impacts. The City Council adopted the Statement in 2008 and will reaffirm those findings with regard to the revised project.

CONCLUSION

The project represents a unique housing type and mixed use opportunity for the City. The proposed project will be consistent with the City's Zoning Code and General Plan. The project fills the need for high-quality, high-density, for-sale residential units with amenities that are within walking distance.

RECOMMENDATION

Staff recommends that the Planning Commission recommend approval to the City Council of SA15-0001, MT08-0003, UP15-0007, and EA15-0002, subject to the attached Resolution and its exhibits, including the Conditions of Approval.

ATTACHMENTS:

- A. Planning Commission Resolution No. 16-005
 - Exhibit 1: Conditions of Approval
 - Exhibit 2: Mitigation, Monitoring or Reporting Program
- B: Project Plans
- C: Addendum to Environmental Impact Report